IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 28TH FEBRUARY 2007 / 9TH PHALGUNA 1928

WP(C).No. 6790 of 2007(G)

PETITIONERS:

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1. N.HARIKRISHNAN,
   S/O.DR.P.N.NARAYANAN NAIR, SREERANGAM,
   H6, JAWAHAR NAGAR, KAWADIAR(PO),
   TRIVANDRUM- 695 003.

2. DR.P.N.NARAYANAN NAIR,
   SREERANGAM, H6, JAWAHAR NAGAR,
   KAWADIAR (P.O.), TRIVANDRUM- 695 003.

3. R.MANJU,
   SRRERANGAM, H6, JAWAHAR NAGAR, KOWDIAR (P.O.),
   TRIVANDRUM - 695 003 - REPRESENTED BY POWER OF
   ATTORNEY HOLDER P.RAMANI AMMA.

4. R.MEENU, SREERANGAM, H6, JAWAHAR NAGAR,
   KOWDIAR (P.O.), TRIVANDRUM - 695 003 -
   REPRESENTED BY POWER OF ATTORNEY HOLDER
   P.RAMANI AMMA.

5. R.BEENA, SREERANGAM,
   H6, JAWAHAR NAGAR, KOWDIAR (P.O.),
   TRIVANDRUM- 695 003 - REPRESENTED BY
   POWER OF ATTORNEY HOLDER P.RAMANI AMMA.

6. DR.SUNITHA,
   TC 7/1964, PARAVILA LANE, MADATHIL VEETTIL,
   MEDICAL COLLEGE (P.O), TRIVANDRUM- REPRESENTED
   BY POWER OF ATTORNEY HOLDER, R.MALINI,
   T.C.9/700, CHENMAYA VIHAR,
   SASTHAMANGALAM (P.O.), TRIVANDRUM.

7. MRS.M.KARTHIYANI AMMA, T.C.1/1105,
   MANI BHAWAN, KUMARAPURAM, MEDICAL COLLEGE (P.O.),
   TRIVANDRUM-11.

8. R.MALINI,
   T.C.9/700, CHINMAYA VIHAR, SASTHAMANGALAM,
   TRIVANDRUM.

9. V.SURESH, T.C.40/1481,
"SANTHILA", MANACAUD (P.O.), TRIVANDRUM-9.

10. SINDHU.V.,
T.C.40/1481, 'SANTHILA", MANACAUD (P.O.),
TRIVANDRUM-9.

11. V.DILEEP,
T.C.40/1481, "SANTHILA", MANACAUD (P.O),
TRIVANDRUM-9.

BY ADV. SRI.N.N. SUGUNAPALAN (SR.)
SRI.S.SUJIN

RESPONDENTS:

1.SPECIAL SECRETARY,
LOCAL ADMINISTRATION & SOCIAL WELFARE (G)
DEPARTMENT, GOVERNMENT OF KERALA,
THIRUVANANTHAPURAM.

2.SECRETARY, CORPORATION OF
THIRUVANANTHAPURAM, THIRUVANANTHAPURAM.

3.CHIEF TOWN PLANNER,
TOWN PLANNING OFFICE, KOTTARATHIL BUILDINGS,
PALAYAM, THIRUVANANTHAPURAM.

4.STATE OF KERALA- REPRESENTED BY
CHIEF SECRETARY TO GOVERNMENT,
SECRETARIAT, THIRUVANANTHAPURAM.

R1, R3 & R4 BY GOVT. PLEADER SMT.T.B.RAMANI
R2 BY ADV.MR.N.NANDAKUMARAMENON

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 28/02/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE,J.

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W.P.(C)No.6790 of 2007

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Dated: 28th February, 2007

JUDGMENT

Heard Mr.N.N.Sugunapalan, Senior Counsel appearing for the petitioners, Mr.N.Nandakumara Menon, Standing Counsel for the 2nd respondent and Smt.T.B.Ramani, learned Government Pleader on behalf of the State and the official respondents.

2. The petitioners impugn Ext.P2 order by which the Corporation has rejected the petitioners' application for building permit on the ground that the plot upon which the building is proposed to be constructed comes within the Medical College Area Development Scheme. In find force in the submission of the learned Senior Counsel that the issue is covered by the judgment of this court in **Padmani v. State of Kerala** (1999(3) KLT 465).

3. Having regard to the principles laid down by this court in **Padmani v. State of Kerala** (supra) and also the judgment of the Supreme Court in **Raju S.Jethmalani v. State of Maharashtra** [(2005) 11 S.C.C. 222], the petitioners are entitled for relief. Accordingly, this Writ Petition will stand disposed of in the following terms:

Ext.P2 is quashed and the 2nd respondent-Corporation is directed to pass fresh orders on the building permit application

submitted by the petitioners favourably if the plan is otherwise in order on condition that the petitioners submit an undertaking in the form of an affidavit stating clearly that if a notification under Section 4(1) of the Land Acquisition Act is promulgated within one year of issuance of the building permit, the petitioners will surrender the property including the building constructed without claiming any compensation for the building. It is made clear that even thereafter if the Corporation or the Government wants to acquire the property for any genuine public purpose, this judgment will not stand in the way doing so and under such an event the respondents will give adequate compensation to the petitioners. Fresh orders on the building permit application will be passed by the 2nd respondent-Corporation at their earliest and at any rate within three weeks of receiving a copy of this judgment.

srd **PIUS C.KURIAKOSE, JUDGE**